

From: Robert Grabowsky
To: Microsoft ATR
Date: 1/23/02 7:13am
Subject: Microsoft Settlement

I am a United States citizen with about 16 years experience in the computer industry. I am a computer professional and my livelihood depends on happens in the US vs. Microsoft antitrust case. I have read the proposed settlement, and I am not in favor of it in its current state. Please consider this a vote against the current settlement, as well as a vote to seek a settlement that is more favorable to Microsoft's competitors, yet unfavorable to Microsoft. I believe the proposal is a dishonest one that sells out the public interest. I will explain why, and offer some guidelines for a fairer remedy.

1. Microsoft's main crime (not bundling, but the prevention of bundling) has had lasting anti-competitive effects that the settlement should address but doesn't. What Microsoft did that seriously disadvantaged the consumer was not so much bundling its own browser with its operating system, but preventing computer resellers (OEMs) from offering consumers a choice by bundling competing browsers such as Netscape Navigator.

2. Microsoft's monopoly profits are the direct result of these and other illegally anti-competitive tactics. The antitrust case established that the absence of competition emboldened Microsoft into charging \$89 for Windows instead of \$49. In other words, consumers paid extra merely because of a monopoly that was being illegally maintained. There is absolutely nothing in the proposed settlement that addresses the issue of these ill-gotten gains, or how these will be reimbursed to the public from whose pockets they came. This simple omission easily amounts to billions of dollars, and by itself makes the settlement a sellout of the public interest, even without an assessment of its other shortcomings.

3. Though it has been established that Microsoft has repeatedly broken the law, the settlement only defines mechanisms to prevent future wrongdoing. What about punishment for past wrongdoing?

Guidelines for a fair remedy:

1. Recurrence: Microsoft must not be able to continue to abuse its monopoly the way it has in the past.

2. Reimbursement: Microsoft has no right to retain the excess profits it has earned as a result of its illegal actions. This money should be repaid

to the consumer.

3. Reparations: As Microsoft is responsible for the current uncompetitive market in operating systems and related applications, it must underwrite efforts to restore competition and consumer choice. The rest of the market should not have to pay to recover from Microsoft's abuses.

4. Reference: Microsoft must pay punitive damages over and above its reimbursement and reparations obligations, to serve as a warning to deter future monopolists. The remedy must in no case send out a signal that a large enough violator can get off lightly. Future tax dollars can be saved by discouraging abuses instead of having to prosecute them.

Sincerely,
Bob Grabowsky